

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	
James Munson Davis)	14 B 45737
Victoria S Davis)	
Debtor(s),)	Judge Deborah L. Thorne
)	

Notice of Motion / Certificate of Service

James Munson Davis
Victoria S Davis
4238 W. Maypole Avenue
Chicago, IL 60624
Via U.S. Mail

Elyssa M Pavone
Ledford Wu and Borges, LLC
Via the clerk's electronic filing procedures

Please take notice that on **November 7, 2016**, at 9:00 A.M., I shall appear in Courtroom 613 of the Dirksen Federal Building, 219 South Dearborn, Chicago, Illinois, and present the attached Motion to Dismiss, a copy of which is hereby served upon you.

The undersigned certifies that a copy of the foregoing Notice of Motion was served to the above listed persons by placing a copy of same in the US mail, first class postage prepaid and/or as addressed and by the method indicated above on October 28, 2016.

Marilyn O Marshall,
Standing Trustee

/s/A. Stewart Chapman

Office of the Chapter 13 trustee
Marilyn O Marshall
224 S. Michigan Ave.
Suite 800
Chicago, IL 60604
(312) 431-6533

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Motion for Payroll Control or to Dismiss with a 180 Day Bar to Refiling

COMES NOW Marilyn O Marshall, Standing Trustee, pursuant to Section 1307, §349, §1325(c) of the Bankruptcy Code and requests that the attached Payroll Order be entered, or in the alternative that this case be dismissed for abuse under §1307 and §349 and a 180 day bar to re-filing under any chapter of Title 11 USC be imposed, and in support, states as follows:

1. This case was filed on December 24, 2014.
2. This is a core proceeding under 28 USC §157.
3. The instant case was the debtors' second bankruptcy case pending within one year and the automatic stay was extended on January 15, 2015. Payroll control was ordered at that time.
4. The payroll control order was vacated on July 25, 2016. The Motion to Vacate payroll stated that "Debtors no longer wish to be on payroll control and would prefer to send payments directly to the Trustee."
5. The debtors have not made any payments on their own since the payroll deductions ceased.
6. Plan payments are currently \$335.00. The debtors' default in plan payments is currently \$1,133.83.

7. The bankruptcy code provides under 11 USC §1325(c) that “the court may order any entity from whom the debtor receives income to pay all or any part of such income to the trustee.”
8. The debtors’ plan is now in default as a result of the debtors failing to make the plan payments directly.

WHEREFORE, Trustee requests that this Court re-enter the Payroll Control order or in the alternative dismiss this case for cause under 11 USC §1307(c), and §349, barring the Debtors from re-filing a subsequent case for 180 days, and for any and all other relief this Court deems just and proper.

Respectfully Submitted,
Marilyn O Marshall
Chapter 13 Trustee

/s/ A. Stewart Chapman

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